

### **REMARKS**

Applicant respectfully requests reconsideration of this application in view of the following remarks and the above amendments. This response is believed to fully address all issues raised in the Office Action mailed November 27, 2009. Furthermore, no new matter is believed to have been introduced hereby. Claims 1-5, 12-16, 23-25 and 31-33 remain pending as amended above. Claims 26-30 have been canceled without prejudice or disclaimer.

Initially, Applicant has amended the abstract as detailed above to reduce the number of words to below 150. Accordingly, the abstract is believed to be in compliant with the rules.

Also, rejection of claims 1-5 and 12-16 under 35 USC § 101 is believed to be fully addressed via the above-detailed amendments to claims 1 (where the data is indicated to be stored in a memory) and 12 (indicating a "storage" medium) as the claimed invention was indicated to be directed towards non-statutory subject matter.

### **35 USC §§102 and 103 Rejection of the Claims**

Claims 1-4, 12-15 and 23-25 were rejected under 35 USC § 102(b) as being anticipated by Redstone Software, Inc. ("Software Automation & Testing").

Claims 5 and 16 were rejected under 35 USC § 103(a) as being unpatentable over Redstone Software, Inc. (Software Automation & Testing").

Initially, each of these rejections is respectfully traversed as the cited art, alone or in combination, fails to teach or even suggest the claimed combination of features such as set forth in any of the pending claims.

For example, in rejecting claim 1, the Action in part states:

application program; analyzing the captured user input data and displayed images to generate an execution scenario during the recording phase (pages 8 and 12,

"generating a script"); generating simulated user input data based on the execution

Accordingly, the Office is alleging that the cited art teaches analysis of user input data and displayed images to generate an execution scenario.

However, the cited portion of the art pages 8 and 12, respectively, merely state:

When generating a script, the user steps through the same sequence that they would use when performing a manual test, except that they capture images of the target controls and screen locations that will act as cues for Eggplant when the script is run.

### **3. The SenseTalk code for the command is added to the Script.**

Accordingly, Eggplant has the user step through a sequence to generate the script. In other words, the cited reference teaches nothing about using both user input data and displayed images to generate an execution scenario; rather the captured images are used as cues when running the script and not to generate a script such as claimed.

To this end and without limiting the scope of embodiments of the invention, only in an effort to impart precision to the claims (e.g., by more particularly pointing out embodiments of the invention, rather than to avoid prior art), and merely to expedite the prosecution of the present application, Applicant has amended independent claim 1 to in part recite that the claimed scenario is a "script". Support for this amendment may be readily found in the present specification, see, e.g., abstract.

It is respectfully submitted that the cited art, alone or in combination, fails to teach (or even suggest) the claimed combination of features such as set forth in claim 1, including for example, generating a script based on both captured images and user input data. Accordingly, claim 1 is believed to be in condition for allowance.

The remaining independent claims recite similar (though not identical) language as claim 1 and have been rejected for similar reasons as claim 1. Hence, these remaining independent claims should be allowable for at least similar reasons as claim 1, as well as additional or alternative elements that are recited therein but not shown in the cited prior art.

Also, all pending dependent claims should be allowable for at least similar reasons as their respective independent claims, as well as additional or alternative elements that are recited therein but not shown in the cited prior art.

For example, new claims 31-33 clearly distinguish the cited art. More particularly, these new claims indicate that the recording and playback phases are performed by different computer systems, whereas the cited art repeatedly indicates that a remote computer has to be used for its

capture and playback (see, e.g., page 4). This clearly teaches away from the embodiment of claims 31-33.

**Conclusion**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney (303-800-6678) to facilitate prosecution of this application.

Applicant hereby petitions, as well as includes the appropriate fee herewith, to obtain a one-month extension of the period for responding to the Office action, thereby moving the deadline for response from February 27, 2010 to March 27, 2010 (and further to March 29, 2010 due to Office closure).

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-4238.

Respectfully submitted,  
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Date 3/29/10

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